

UNITED STATES DISTRICT COURT
DISTRICT OF NEVADA

JIMMY L. BANKS, *et al.*,

Plaintiffs,

vs.

FREDDIE MAC, *et al.*,

Defendants.

Case No. 2:11-cv-00648-GMN-CWH

ORDER

This matter is before the Court on Defendants' Motion to Quash (#43), filed April 12, 2012; Plaintiff's Response (#45), filed April 30, 2012; and Defendants' Reply (#47), filed May 2, 2012. The Court will also consider Plaintiff's Proposed Discovery Plan (#50), filed July 18, 2012.

By way of this motion Defendants request that the Court quash a subpoena duces tecum issued by Plaintiff. The Court has reviewed the record in this matter and agrees that the subpoena must be quashed. Pursuant to Federal Rule of Civil Procedure 26(d), "[a] party may not seek discovery from any source before the parties have conferred as required by Rule 26(f), except . . . when authorized by these rules, by stipulation, or by court order." *See* Fed. R. Civ. P. 26(d)(1). At the time the subpoena was issued, the parties had not conducted a Rule 26(f) conference. Plaintiff does not identify any rule, stipulation, or court order that would permit discovery prior to the planning conference. Until the parties confer pursuant to Rule 26(f), neither party may seek discovery from any source.

The Court will also deny Plaintiff's proposed discovery plan. Pursuant to Local Rule ("LR") 26-1(d), it is the Plaintiff's obligation to initiate the scheduling of the Rule 26(f) conference. After the 26(f) conference, the parties must submit a stipulated discovery plan and scheduling order. The proposed plan submitted by Plaintiff was submitted prior to the 26(f) conference and is not made by stipulation. A party that "fails to participate in good faith in


1 developing and submitting a proposed discovery plan as required by Rule 26(f)” may be subject to
2 sanction. *See* Fed. R. Civ. P. 37(f).

3 Based on the foregoing and good cause appearing therefore,

4 **IT IS HEREBY ORDERED** that Defendants’ Motion to Quash (#43) is **granted**.

5 **IT IS FURTHER ORDERED** that Plaintiff’s Proposed Discovery Plan (#50) is **denied**.

6 DATED this 2nd day of August, 2012.

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10 **C.W. Hoffman, Jr.**
11 **United States Magistrate Judge**
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